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DIGEST OF WATER POLLUTION CONTROL LEGISLATION... MICHIGAN

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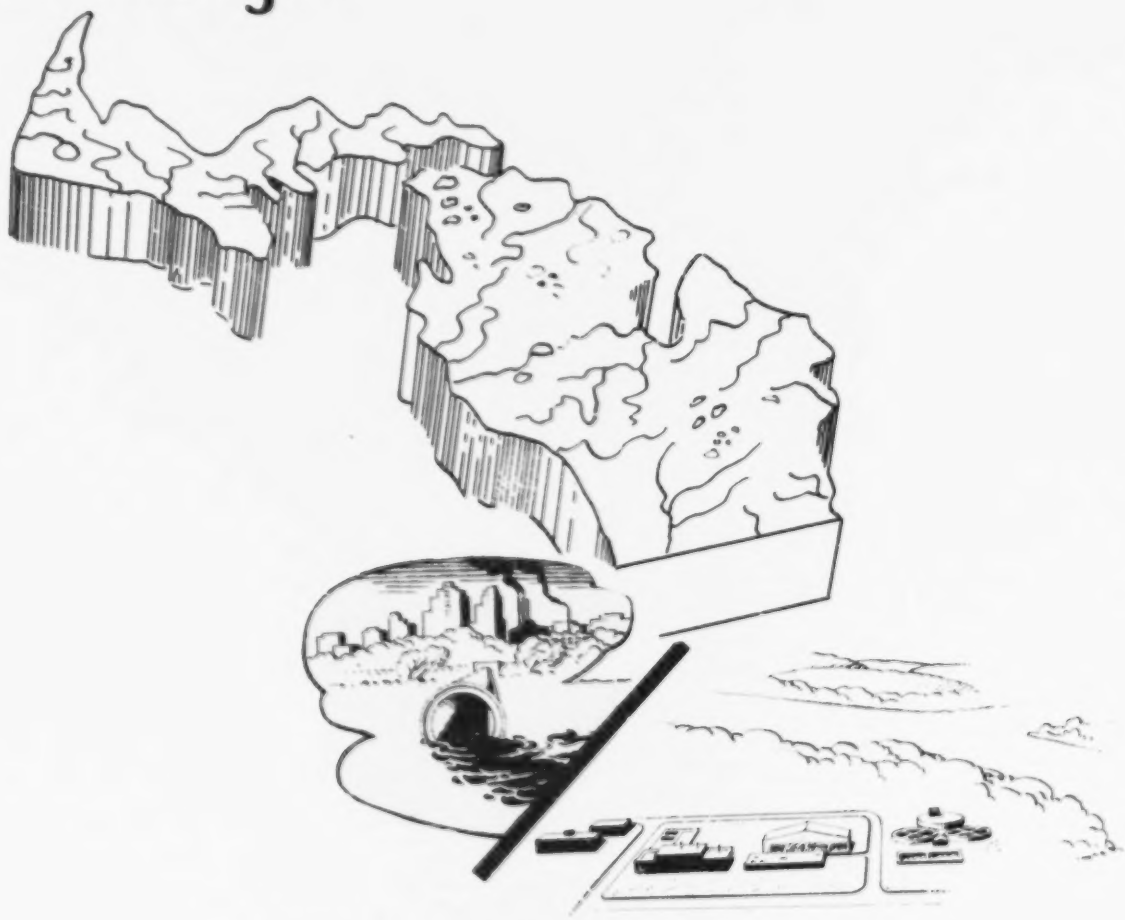

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF MICHIGAN WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

Both the Water Resources Commission and the State Department of Health exercise functions relating to water pollution control.

The Water Resources Commission sets pollution standards for the waters of the State and controls the waste discharged into such waters (Secs. 3.525, 3.527)[1/]. It is authorized to take steps necessary to comply with the provisions of Public Law 660 and to expend funds available under such law for improvement of the State or Interstate program for prevention and control of water pollution (Laws of Mich. 1st Ex. Sess. 1956, Act 13, to be added to Mich. Statutes Annotated as sec. 3.533(1)).

The Health Department exercises control over waterworks and sewerage treatment facilities (Sec. 14.411).

The Commission, upon petition filed with it, after investigation and hearing, is empowered to authorize the establishment of sewage disposal and water supply districts (Laws of Mich., 1956, Act 211, to be added to Mich. Statutes Annotated as secs. 5.2769(81)-5.2769(92)).

II. ADMINISTRATIVE ORGANIZATION

A. Water Resources Commission

1. Composition and Organization

The Commission is composed of the Director of Conservation, the Commissioner of Health, the Highway Commissioner, the Director of Agriculture, and three citizens appointed by the Governor, with the consent of the Senate for 3-year terms. One Commissioner represents industrial management, one municipalities and one conservation interests. Each ex-officio member is authorized to designate a deputy of his department to serve in his place.

1/ Citations in this digest refer to the Michigan Statutes Annotated, and the 1955 Cumulative Supplement thereto, unless otherwise noted.

The Commission makes its own rules and regulations and procedure, and meets at least once each month (Sec. 3.521, 3.522).

2. Powers and duties

a) Setting pollution standards

The Commission is authorized to establish pollution standards for waters of the State (Sec. 3.525).

b) Enforcement

When the Commission is of the opinion that there is an actual or potential offensive discharge of wastes to State waters, it serves notice on the alleged offender of its determination which contains a statement of the specific violation, a proposed form of order or other action, and a date for a hearing on the facts and proposed action involved not less than four weeks or more than eight weeks from the date of the notice. At the hearing any interested party may appear, present witnesses and submit evidence. Following the hearing the Commission issues its final order. An aggrieved party may appeal such order to a circuit court within fifteen days of the final Commission order. The case is then tried de novo (Sec. 3.527).

Anyone who feels aggrieved by the restriction of polluting content or any other order of the Commission, may upon filing a sworn petition with the Commission setting forth the grounds for his complaint, receive a hearing at which he or any other interested party may appear, present witnesses and submit evidence. The Commission then makes its final order. An aggrieved party has the right of appeal as indicated in the above paragraph.

Anyone requiring a new or substantial increase over the present discharge of wastes, must file with the Commission a written statement setting forth the nature of the enterprise contemplated, the amount of water to be used, its source, the proposed point of discharge of wastes, the estimated

amount to be discharged, and a statement of the expected bacterial, physical, chemical and other known characteristics of said wastes. Within 60 days, the Commission makes an order setting forth the minimum restrictions to guard against unlawful use of the public waters. If this is unacceptable to the petitioner he may request a hearing on the matter, following which the Commission's final order is issued. An aggrieved party may appeal to the circuit court within 15 days after the issuance of the final order. (Sec. 3.528).

It is unlawful for anyone to discharge into any of the waters of the State any substance which is injurious to the public health, to the conduct of any industrial enterprise or other lawful occupation, or whereby fish, wild animals, or aquatic life may be destroyed or injuriously affected. Anyone discharging such waste into any of the waters of the State is deemed to have violated the Act (Sec. 3.526).

Any agent of the Commission is authorized to enforce the provisions of the Act and may make criminal complaint against any person violating the same. After service of a written notice of determination, setting forth specifically any violation of the Act, any person who fails to comply with the order of the Commission or anyone who wilfully violates any provisions of the Act or any restriction, regulation or final order of determination of the Commission is subject to a penalty of not to exceed $500 per day for each day the violation continues, such penalty to be recovered in a suit in the circuit court (Sec. 3.529).

The Commission can bring any action, either at law or in chancery, needed to carry out the provisions of the Act, and to enforce all laws relating to the pollution of the waters of the State (Sec. 3.523).

c) Conduct of studies, investigations and research

The Commission is empowered to make surveys, studies and investigations of the uses of waters of the State, both surface and underground, and to cooperate with other governments, and governmental units in such undertakings (Sec. 3.522).

d) Cooperation with other agencies

The Commission is designated as the State agency to cooperate and negotiate with other governments, governmental units concerning the water resources of the State. It is authorized to take advantage of any Act of Congress helpful in carrying out the purposes of the Act (Sec. 3.522(1)).

e) Administrative powers

The Commission is authorized to bring legal actions, hold hearings, issue orders, rules and regulations. The Commission or its agents may enter at all reasonable times any private or public property for the purpose of investigating conditions relating to the pollution of any waters of the State. It may call upon any officer, board, department, school, university, or other State institution and its officers for assistance in carrying out the provisions of the Act (Secs. 3.522, 3.523, 3.524, 3.527, 3.528, 3.529).

3. Preservation of existing rights and remedies

The Act does not repeal any of the provisions of the law governing the pollution of lakes and streams, but is ancillary thereto except to the extent they may be in direct conflict. The Act does not amend or repeal any law of the State relating to the Public Service Commission, the Department of Conservation and the Department of Health relating to waters and water structures, or any act not inconsistent with its provisions (Secs. 3.532, 3.532(1)).

B. State Department of Health

1. Composition and Organization

The state health commissioner is appointed by the Governor, with the consent of the Senate, for a four year term. He must have at least five years experience as a practicing physician, or have a degree of doctor of public health or its equivalent. He has general supervision over the enforcement of the health laws of the State. A state council of health is provided, composed of five persons appointed by the Governor with the consent of the Senate, for overlapping terms of six years. With the concurrence of the council, the commissioner is authorized to make rules and regulations for safeguarding public health, preventing spread of diseases or the existence of sources of contamination. The council convenes at the call of the commissioner, but must meet at least four times a year (Secs. 14.1, 14.2, 14.5, 14.7).

2. Powers and duties

a) General powers

The Commissioner has general supervisory and visitorial power over municipalities, corporations and individuals engaged in furnishing water to the public for household or drinking purposes, or furnishing sewerage and/or sewage treatment services (Sec. 14.411). He is authorized to issue and enforce rules and regulations governing the operation of waterworks and sewage treatment plants (Sec. 14.413).

b) Issuance of permits and review of plans and specifications

Before anyone can construct, alter or improve any waterworks system, sewerage system, filtration or other purification plant or treatment works he must submit plans and specifications therefor to the Commissioner and secure a permit for such work (Sec. 14.416). The Commissioner is authorized to provide for the examination of operators of waterworks and sewage

treatment works and issue certificates for such operators (Sec. 14.413).

c) Enforcement

The Commissioner is authorized to inspect waterworks and sewerage systems and their method of operation. If he finds them to be inadequate, he may order modification of the works or their method of operation (Sec. 14.420).

Anyone found guilty of violating the provisions of the Act or any written order of the Commissioner, is deemed guilty of a misdemeanor. Each day the violation continues is a separate offense. The Attorney General prosecutes all cases arising under the Act (Sec. 14.423).

The Commissioner is authorized to bring any action necessary to carry out the provisions of the Act and to enforce any laws, rules and regulations relating to the provisions of the Act (Sec. 14.424).

d) Conduct of studies, investigations and research

The Commissioner, on request, is authorized to make analyses of water believed to be contaminated (Sec. 14.414).

e) Cooperation with other public and private agencies

The Commissioner is empowered to counsel with governmental agencies, corporations, associations, partnerships and individuals owning and/or operating sewerage systems when disputes between public agencies over sewerage service or sewage treatment rates occur and may act as arbitrator in such cases when called upon so to do by a majority of the parties to the controversy. He also cooperates with appropriate Federal or State agencies in the determination of grants of assistance for the preparation of plans and/or for the construction of waterworks systems, sewerage systems or waste treatment projects (Sec. 14.421).

Anyone operating water treatment plants or sewage treatment works is required to file, under oath, such reports as may be required with the Commissioner. False statements made in such reports are deemed to be perjury (Sec. 14.418).

f) Administrative powers

The Commissioner is authorized to approve plans and specifications for waterworks and sewage treatment plants, issue orders and permits (Sec. 14.413, 14.416). He is also authorized to act as agent for the Stream Control Commission (now the Water Resources Commission)(Sec. 14.421). The Commissioner (or his representative) is empowered to enter upon, at all reasonable times, the water works systems or sewerage systems to inspect them and carry out the authority vested in him under the Act (Sec. 14.412).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

All fish, offal or filth or any description accruing from the catching and curing of fish, must be burned or buried ten rods distant from the beach or shore of any stream, pond or lake (Sec. 13.1672).

It is unlawful for anyone to put into the waters of the State any offal, putrid fish or any filth that will tend to stupefy, injure or kill fish; or to put any sand, ashes, sawdust or other filth into the waters of the State. Violation is a misdemeanor carrying a fine and imprisonment (Secs. 13.1671, 13.1674, 13.1675).

The taking of fish by explosive substances is prohibited (1955 Cum. Supp., Sec. 13.1602).

It is unlawful wilfully to poison any spring, well, or reservoir of water (Sec. 28.691).